

Appl. No.: 10/087,146

Amdt. Dated: May 5, 2004

Reply to Office Action of: March 5, 2004

REMARKS/ARGUMENTS

Claims 1 – 13, 17, 20, 23 – 33, 37, 40, 44-52, 54 and 55 remain in this application. No claims have been amended herein. No claims have been cancelled herein. No new claims have been added.

2. § 103 Rejections

The Examiner has rejected claims 1 – 7, 9 – 13, 17, 20, 23-33, 37, 40, 44 – 52, 54, and 55 under 35 U.S.C. § 103(a) as being unpatentable for over Oba (6,238,479). A response to the Office Action was filed by facsimile on April 28, 2004. This paper is supplemental to that response and applicants request the examiner's consideration of the material presented herein and in the attached figure.

In the Final Office Action on page 2, last two line, to page 3, 3, line 4, the Examiner commented that in the absence of unobvious results, routine experimentations would have led to "... optimum, operable seed and crushing. ...".

Applicants enclose herewith a figure showing the absorption for elements made from non-metallically crushed material in accordance with the present invention that have been and elements made from materials crushed by other methods (labeled "Prior") that include the use of a wooden crusher. The elements were first exposed to 5 million pulses of 193 nm, 40 mJ/cm² radiation, and then the absorption was measured at 255 nm through 5 mm elements. The use of the non-metallic crushing in accordance with the claimed invention reduced the formation of color centers as is illustrated by the enclosed figure. Applicants submit that the improvements shown by the parts on the left side of the figure, those made in accordance with the claimed invention, demonstrate unexpected results relative to the prior art.

Accordingly, applicants submit that the as claimed in claims 1 – 13, 17, 20, 23 – 33, 37, 40, 44-52, 54 and 55 are distinguishable over the art of record and are patentable over such art.

Based upon the above amendments, remarks, and papers of records, applicant believes the pending claims of the above-captioned application are in allowable form and patentable over the prior art of record. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

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Applicant believes that no extension of time is necessary to make this Reply timely. Should applicant be in error, applicant respectfully requests that the Office grant such time extension pursuant to 37 C.F.R. § 1.136(a) as necessary to make this Reply timely, and hereby authorizes the Office to charge any necessary fee or surcharge with respect to said time extension to the deposit account of the undersigned firm of attorneys, Deposit Account 03-3325.

Please direct any questions or comments to Walter M. Douglas at 607-974-2431.

5 May 2004
Date

<p>CERTIFICATE OF TRANSMISSION UNDER 37 C.F.R. § 1.8</p> <p>I hereby certify that this paper and any papers referred to herein are being transmitted by facsimile to the U.S. Patent and Trademark Office at 703-872-9306 on:</p> <p><u>5 May 2004</u> Date</p> <p><u>Walter M. Douglas</u> <u>5 May 2004</u> Walter M. Douglas Date</p>
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Respectfully submitted,
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